

**COMMISSION MEETING
THURSDAY, JUNE 12, 2003
FINAL DRAFT MINUTES**

Chairman Orr called the meeting to order at 1:30 p.m., at Maple Hall located in LaConner. Chairman Orr welcomed the attendees and introduced the members and staff present:

MEMBERS PRESENT: **COMMISSIONER GEORGE ORR, CHAIR;**
 COMMISSIONER LIZ MCLAUGHLIN, VICE CHAIR;
 COMMISSIONER CURTIS LUDWIG;
 COMMISSIONER ALAN PARKER;
 SENATOR SHIRLEY WINSLEY;

STAFF PRESENT: **RICK DAY, Executive Director;**
 ROBERT BERG, Deputy Director;
 ED FLEISHER, Special Assistant;
 AMY PATJENS, Manager, Communications and Legal Dept.;
 CALLY CASS-HEALY, Assistant Director, Field Operations;
 DERRY FRIES, Assistant Director, Licensing;
 JERRY ACKERMAN, Assistant Attorney General;
 SHIRLEY CORBETT, Executive Assistant

Chair Orr introduced Special Agent Danny Lisa, from the Renton Office, attending as a participant in the agency's partnership program.

1. Review Of Agenda and Director's Report:

Director Day identified and reviewed inserts provided to the agenda packet. He then noted there were no agenda changes, and highlighted the two-day agenda. Director Day reported that Speaker of the House Frank Chopp reappointed Representatives Alex Wood and Cheryl Pflug to continue in their role as ex officio members with the Gambling Commission. **Chair Orr** addressed the 2003-2004 elections and noted the process would be facilitated on Thursday to allow Commissioner Parker's participation.

Legislative Update:

Director Day reported that House Bill 2282 is new legislation which is essentially the Lottery Commission's version of House Bill 1948, formally known as the Electronic Scratch Ticket Bill. It appears to have the Lottery responsible for system operation and regulation, and changes the distribution of revenue, particularly the amount that goes to the state. This is the concept the Commission discussed at the May meeting, and subsequently sent a letter outlining the Commission's concerns. At this point, no action has been taken on the bill.

House Bill 5403 - Operating Budget – **Director Day** reported there would not be a transfer through the Operating Budget from the Commission Revolving Account to the General Fund. Director Day acknowledged the many people who worked on this issue, and expressed the Commission's appreciation and the agency's appreciation. **Chair Orr** also thanked the ex officio members for their hard work, particularly Senator Winsley's diligence in this matter. Staff was directed to send thank-you letters to the chairs of the Senate Ways and Means Committee and to the House Appropriations Committee.

Director Day addressed the budget notes that were attached to the statewide budget, clarifying they essentially contained a suggestion for a 10.2 FTE reduction and \$1.9 million attributed to efficiencies. The reductions exist in the budget notes and could interfere with the allotment process, however, there is no statutory language supporting the notes. A new section was inserted in the Operating Budget to create a task force consisting of the Director of the Lottery Commission, the Director of the Gambling Commission, Legislative Representatives, and four representatives representing the Governor's Office. The purpose of the task force is to examine the possible means for enhancing state revenue from gaming. A report from the task force is scheduled to be produced for the Legislature by January 5, 2004. Director Day advised that he would update the Commission in August regarding the definition and progress of the task force.

Commissioner Parker questioned who the sponsors were for this proposal, and questioned their intentions. **Director Day** responded that Representative Grant sponsored the language, and he also sponsored the EIC Bill (1948) and the alternate just reviewed. He affirmed there is a direct connection from this study to the EIC proposals. Director Day commented that staff did attempt to arrange a meeting with Representative Grant to explore his intent and desired outcome from the task force, however, due to the rush of events at the end of the Legislative session, that meeting was not possible.

Administrative Issues:

Director Day reported on the Agency Conference conducted on May 20 and 21, noting that Commissioner McLaughlin attended with approximately 170 employees. The conference theme was oriented around the Commission's upcoming 30th Anniversary, strategic planning, and employee recognition. Special Agents Dylan Miliron, Mike Lopez, Amy Schmitt, Dan Eddy, and Keith Shuster, along with Information Technology Technician Rodney Joubert, were recognized for their military service. Additionally, over ninety employees were nominated for other awards. Jason Hugget, from the Information Technology unit received the Life Saver Award, for being the person staff could count on to get things done. Mark Harris, a supervisor from the northwest region received the Rock Award for being a solid resource, dependable and calm in a storm. Shanna Lingel, an agent in the Financial Investigation Unit, received the Spirit Award, for being an energizer, someone who brings high energy and humor to the workplace and has a positive influence on co-workers. The Rookie of the Year award went to Receptionist, Elizabeth Barrett. Seven agents (Ben McDonald, Curt Moriyama, Jeanine Sugimoto, Keith Schuster, Mike Burt, Patrick Griffie and Patrick Parmer) were honored for their high scores in defensive tactics and firearms in the law enforcement requirements. The Professional Achievement Award went to Kathy Mills from the Financial Reporting Services, for going the extra mile beyond job expectations, knowing the value of teamwork, for being consistent and dependable, and for having respect for staff and the public.

Commissioner Parker commented that it is obvious that the Commission is an organization that has a great esprit de corps, and that he has certainly seen that in the contacts he has had with the staff. He commented that the agency conference was another example of the kind of management and leadership that makes a big difference in an organization. He noted that our employees consider it a point of pride to be working for this top-notch organization.

Director Day proceeded to present a Power Point Presentation on the Commission's 2003-2005 budget. His purpose was to update the Commission, provide a summary of the notes that were contained in the budget notes, and to make a proposal to the Commission about how we might handle the budget notes. Director Day reminded the Commissioners that in August 2002, the Commission approved an Agency Biennium Budget at \$29 million with 188.2 FTE's. That budget included a \$2.9 million reduction, and within that \$2.9 million reduction, there was a 2.5 percent efficiency savings in operations with a total of 15.6 FTE's. The budget, once approved as required under the state budget and accounting requirements, was forward to OFM and subsequently through the executive budgeting process to the Legislature. Following the Commission's approval of the budget, the budget was the subject of some proposed changes, including the creation of a Department of Gaming, a proposed \$1.5 million fund transfer, and budget notes containing suggested reductions. The Department of Gaming proposal and the Fund Transfer proposal were not approved by the Legislature. The legislative notes remain, without an appropriation. Director Day believed that because the budget had already been approved, and out of respect for the process and the legislative action, it would be appropriate for the Commission to consider the notes before the Commission forwards the budget for allotments in August. Director Day explained the budget bill does not contain the budget notes. There is no appropriation for the agency, so the budget notes are essentially part of the explanatory documents that are used by the executive and legislative staff to apply the appropriations. The Commission's budget did not appear in the budget bill, therefore, the notes are not connected to anything directly acted on by the Legislature. Every executive agency has a page (or pages) to provide further explanation and direction from the Legislature. Director Day clarified that the RCW's state the only entity that is allowed to approve Commission expenditures by law, is the Gambling Commission, as well as being responsible for the collection of fees to cover the costs of licensing and enforcement.

Director Day reviewed a summary, called the Recommendation Summary (Rec Sum), contained in the Executive Budget Report. For the fiscal year 2003, the agency started with 202.3 FTE's as approved and authorized in the 2001-2003 budget, for a total of \$30.5 million. The "Carried Forward Balance" is the agreed upon base by OFM and Commission staff. The FTE's in the second year of 2005 was 196.3 for an approximate total of \$30 million. One category reflects the Commission's action to add mandatory increases in response to the increase in Indian gaming activity in this state such as expanded casinos, new casinos, and new compacts. The second category reflects the reductions at the direction of OFM for self-insurance premiums, which achieves the agency-approved budget for 188.7 FTE's at approximately \$29 million. Director Day emphasized that the budget approved for 2004 and 2005 is less than the budget approved for 2001 and 2003, and it reflects the new decrease approved by the Commission, including the 15.6 FTE's and \$2 million reduction from 2001-0003 budget level.

Director Day reviewed the revenue expectations and stressed the need to balance revenues and expenditures. He noted the revenues for the Class III gaming regulation (employees relative to

Indian casinos), were off approximately 15% because the speed in which Indian gaming establishments expanded was a little slower than anticipated. Director Day reiterated the purpose for this review was to check the revenues and determine if there are any reasons for the Commission to reconsider its budget approval based on current revenues. Current figures tell us the estimated revenues are very close to the expenditures approved by the Commission, therefore, the funding is available to support the budget as approved. Applying the new revenue estimates reverses things a bit, and would put the Commission in a little bit of a deficit spending routine if all the Commission approved dollars were expended as outlined. The Commission would be approximately \$1 million in the hole the first year, however, that million is protected by the fund balance. **Director Day** explained the fund balance would still be well within the desired balance, which is to be able to operate within the operating budget between three and six months.

The budget notes suggest a reduction of 10.2 FTE and \$1.9 million for the biennium. The general justification for the proposed reduction would be to gain administrative efficiencies.

Director Day reminded the Commission they already made a substantial efficiency reduction when they enacted their original budget. He noted the budget notes are tied to statewide FTE reductions that were originally proposed and massaged at the executive and the legislative level that ranges from 2.5 percent to 5.2 percent, as well as the amounts relating to the Department of Gaming proposal. He suggested that if the Commission concurred with the suggestion, the accumulative FTE and dollar reduction would require actual employee lay-offs, the 10.2 FTE's would be positions reduced from the Commission. Services impacted would be determined by where the Commission chose to take the reduction. He cautioned that such reductions would be against the backdrop of continued growth in the gambling activity in the state of Washington, and in spite of sufficient funds to support the budget already approved.

Chair Orr noted that given the fact the Commission has addressed FTE's and reduced staff in light of increased enforcement obligations and an increase in licensees, he believed the Commission needed to report that action to the Legislature and to OFM, and advise them the Commission understands what they want to do, that we're trying to comply, but the Commission also has obligations under the law to regulate gambling. **Commissioner McLaughlin** verified if Item 4 was simply a piece of paper going to the Appropriations Committee from the Office of Program Research, and inquired if it was part of the budget. **Director Day** responded that Item 4 does not recognize the Commission's reduction at all; it simply justifies the reduction in the budget notes. **Commissioner McLaughlin** questioned if this was something that came to the Senate or the House. **Senator Winsley** responded that it came to the Ways and Means Committee, then to OFM. She didn't recall seeing this, and noted the budget document itself is immense. She stressed the need to work with the legislature starting this June, because it is an ongoing budget for next year. She emphasized that by the time the Legislature gets down to the nitty gritty of the budget in the last thirty days of the session, they are hearing from so many agencies, and it is an immense amount of information. Senator Winsley thought that the picture on how the Commission derives its fees, where the money goes, and the role of the Commission plays has never been very well portrayed to other legislators. Senator Winsley affirmed that she talked with Senator Rossi about the budget transfer, and explained the potential for a lawsuit with Indian tribes since some of the funds collected come from them. When questioned, Senator Winsley affirmed that many legislators don't understand how the Commission was funded – they assume it's from the general fund.

Director Day thanked the Commissioners for their comments and noted the Commission has already determined the agencies efficiencies, and reduced FTEs, which demonstrates that the budget notes really don't connect with any clear justification for the Commission. He brought the discussion to staff's recommendation, that the Commission affirm the 2003-05 biennium budget approved last August, and reflect upon the updated information on interagency billings which requires adjustments on the revolving accounts, and instruct staff to submit allotments for 2004-05 as allocated.

Commissioner Parker made a motion seconded by **Commissioner Ludwig** to support the Director's recommendation. Commissioner Ludwig explained the reason he supported the motion was because the Commission had already stepped forward and created some substantial efficiencies and budgeted less money for 2004-05 than for 2002-03 with fewer FTEs in 2004-05 than existed in 2002-03. He noted the Commission did that at the same time when the number of licensee's is increasing. He noted the one thing we don't have any control over is the amount of regulation the Commission is obligated to perform, and he reminded the audience, the TVW audience, and the Legislature, that the Commission is not dealing with general funds. These are licensee fees and costs, paid by the people in this audience, the tribes, and other people throughout the state of Washington involved in gambling activities. **Chair Orr** called for the question. *Vote taken: the motion passed unanimously.*

Director Day returned to reviewing the Director's Report and addressed the latest adjusted cash flow report for the Top 25. At the last Commission meeting, Commissioners were provided with a preliminary report that reflected 88% of the returns. The reports have been concluded, and Director Day reported that all of the Top 25 operators were in compliance with the Adjusted Cash Flow Requirements. In many cases they returned several times their required adjusted cash flow, with the exception of Sno-King Bingo, which has settled their particular revocation action, surrendered a license, and has been reissued a license.

Director Day reviewed the Monthly Update Reports contained in the agenda packet: the administrative and seizure reports, congressional and tribal updates, and reviewed noteworthy news articles. **Chair Orr** called for public comments.

Gary Murray, an unemployed card room employee, questioned the budget, verifying the 2003-05 Budget was lower in FTE's and in operating expense than the 2001-03 Budget. **Chair Orr** affirmed. Mr. Murray then questioned why the Commission continued to increase fees. **Director Day** responded the Commission adds up their total costs, and sets the fees to match the expenses. He noted the Bingo fees actually dropped as the budget was implemented. Pull-tabs and other fees went up. He affirmed the Commission might very well lose revenue relative to the Bingo fees. Director Day also emphasized the Commission has not raised license fees each year, and that was also figured into the equation. Some of the fee was based on catch-up needs. He noted the Commission proposed a deficit spending pattern to try and use the fund balance, and he acknowledged this was a process to access the fees now and to determine whether or not an increase would be necessary as we go into the next year.

Chair Orr called for a recess at 2:43 p.m., and recalled the meeting at 3:00 p.m.

2. **Group V Qualification Review:**

Music Works Northwest, Bellevue:

Deputy Director Robert Berg reported that Music Works Northwest is located in Renton, and the qualification review was for the year ending September 30, 2002. The organization was formed in 1965 and has been licensed by the Commission since 1974. During the evaluation period, they had 57 part-time employees equaling 12 FTE's plus 90 volunteers who performed over 1,100 hours of volunteer service. The organization exists to provide private and group music classes, instrument and vocal ensembles, music therapy services, and summer music camps. The organization holds Bingo Class M and a Pull-Tab Class O licenses. The purpose of the Commission review is to determine that the entity is qualified under the state statute with RCW 9.46 and Commission rules to conduct gambling activities in the state of Washington. The review indicates that the organization has made significant progress towards their stated purpose and that they are qualified as a non-profit organization to operate in the state of Washington. The organization is the second or third largest in the state of Washington in terms of Bingo and Pull-Tabs combined. Between the year most recently analyzed ending September 30, 2002, and the previous year, they had a drop of approximately \$300,000 in their net gambling income. Almost all of it attributed to greater prizes paid out, probably because of the competition and the market place. Their gambling net income was above the state averages for licensees in the same license class, but below licensees in the immediate geographic area for the same license class. They are making significant progress towards their stated purpose and staff believes they are qualified to operate as a non-profit. Staff recommends the Commission certify this organization as eligible to conduct gambling activities in the state of Washington as a non-profit corporation.

John Thomas, Executive Director, introduced Carly Brown, Director of Programs, and Vern Colivo, the Bingo Manager, and proceeded with a 10-15 minute PowerPoint Presentation regarding the organization and the specific programs they provide.

At the conclusion of the presentation, **Commissioner Ludwig made a motion seconded by Commissioner McLaughlin to certify Music Works Northwest to conduct gambling activities in the state of Washington as a nonprofit organization.**

Senator Winsley questioned if they had a fee they charged the students. **John Thomas** affirmed there are half hour, three quarter hour and hourly rates for private instruction, as well as a separate rate structure for groups, classes and ensembles. Senator Winsley asked for an explanation on how the organization spends the money made from Bingo, noting they have a net income of roughly \$339,000. **Carly Brown** responded that tuition only covers 67 percent of what it actually costs, and the organization has put out several thousand dollars in tuition assistance, subsidizing the price for students that can't afford the programs.

With no further comments, **Chair Orr** called for the question. *Vote taken; the motion passed with four aye votes.*

3. **House-Banked Card Room Reviews:**

Star Westsound, LLC, d/b/a/ 11th Frame Restaurant & Lounge, Bremerton:

Derry Fries, Assistant Director, Licensing, reported that Star Westsound LLC, doing business as

11th Frame Restaurant & Lounge is located in Bremerton. The Star Westsound, LLC applied for a license to operate seven tables of house-banked card games. The applicant was formed as a limited liability corporation in February 2002. The LLC headquarters is located in Kenmore. Star Westsound LLC membership consists of seven members: Frank Evans, Joann Evans, Kirstin Oremus, Shannon Bergmann, Albert Evans, Erin Evans and Sean Evans. Each holds 14.285 % of the membership shares. Frank Evans is the LLC Manager. The applicant has no other house-banked licenses at this time; however, Frank Evans and his spouse Joan have a substantial interest in the 11th Frame Restaurant & Lounge in Kenmore.

The Financial Investigation Unit of the Gambling Commission conducted a criminal and personal background investigation of all substantial interest holders, and initiated and completed a financial investigation of both the LLC and personal membership finances, there was no disqualifying information found. The Agency's Field Operation's Division completed an onsite pre-operational review and evaluation (PORE) in accordance with the rules of the Commission on May 19th, 2003, and the applicant was found to be in compliance. Based upon the licensing investigation and the onsite PORE, the staff recommends that Star Westsound, LLC, d/b/a/ 11th Frame Restaurant & Lounge be licensed as a house-banked public card room and be authorized to operate up to seven tables at \$25.00 wagering limit. The applicant proposes to operate one Spanish 21 table, one Fortune Pai Gow table, and five Blackjack tables.

Commissioner Parker made a motion seconded by **Commissioner Ludwig** that Star Westsound, LLC, d/b/a/ 11th Frame Restaurant & Lounge be licensed as a house-banked card room authorized to operate up to seven tables with a maximum betting limit of \$25. *Vote taken; the motion passed with four aye votes.*

Frank Evans introduced himself and noted that throughout this process, Lynn Clevenger, Cindy Reed and Sonja Dolson were quite helpful. He emphasized that it was nice to have people in a bureaucratic situation be helpful as opposed to being hurtful, and they appreciated the staff involved.

With no further comments, **Chair Orr** called for the question. *Vote taken, the motion passed with four aye votes.*

Diamondback's LLC, d/b/a/ Diamondback's Casino, Cle Elum:

Derry Fries, Assistant Director, Licensing, reported that Diamondback LLC has applied for a license to operate five tables of house-banked card games. The applicant was formed as a limited liability company in December 2002. The LLC headquarters is located in Cle Elum. Diamondback LLC management consists of John Coonan with 100% of the membership shares. The applicant has no other house-banked licenses at this time. Special agents from the Financial Investigations Unit of the Gambling Commission conducted a criminal and personal history background investigation on all substantial interest holders, and initiated and completed a financial investigation on both the LLC and the personal finances of Mr. Coonan. No disqualifying information was found. Special agents from the Field Operations Division completed an onsite pre-operational review and evaluation on May 15th, 2003. The applicant was found to be in compliance. Based upon the licensing investigation and the onsite PORE, staff recommends Diamondbacks LLC, d/b/a/ Diamondback's Casino be licensed as a house-banked public card room and be authorized to operate up to five tables at \$25.00 waging limits. The applicant proposes to operate one Spanish 21 table, one Fortune Pai

Gow table, two Lucky Ladies tables, and one Texas Shootout table. The licensee requested an approval for extended operating hours of 10:00 a.m. to 6:00 a.m.

John Coonan commented that he has dealt with other agencies and sometimes it seemed there was an adversarial relationship. He commented that Commission staff impressed him because they were very helpful.

Commissioner Ludwig questioned if there any other card rooms presently in Cle Elum. **Mr. Coonan** responded in the negative.

Commissioner Ludwig made a motion seconded by **Commissioner McLaughlin** that Diamondback's, LLC, d/b/a/ Diamondback's Casino be licensed as a house-banked card room authorized to operate up to five tables with a maximum betting limit of \$25. *Vote taken; the motion passed with four aye votes.*

Mr. Fries provided an update on the status of the House-Banked Card Room Report, noting there are a total of 78 licensed house-banked card rooms in our state. 77 are licensed, one is licensed but not operating, and 16 have closed since program inception (April of 1999). This represents a total of 913 tables operating across our state, which is an average of 11.9 tables per house-banked facility. There are 14 pending applications at this time, requesting 122 tables. There are a total of 6,732 (and 106 pending) licensed card room employees working in our state at the present time, which is an average of 73 employees per facility.

4. Phase II Review:

Buzz Inn Steakhouse, East Wenatchee:

Greg Thomas, Program Manager, reported that Buzz Inn Steakhouse is a commercial restaurant and card room located in the city of East Wenatchee. The ownership consists of Dennis Carino 37.5 %, Delores Robinson 25%, William Tackitt 25%, and Kathy Bilderback 12.5 %. There are no management companies involved in the Buzz Inn Steakhouse. Buzz Inn Steakhouse began operating house-banked games on October 10th, 2002. They currently operate five house-banked games including one Spanish 21, one Match Play the Dealer, one Double Deck Blackjack, one Fortune Pai Gow and one Buzz Inn Bonus Blackjack. Staff conducted a comprehensive investigation including a review and observation of five key operating departments. The review team compared the licensee's actual operating procedures to those documented in the card room rules. The licensee's written internal controls were compared to the card room rules to insure compliance and consistency. A review was conducted of the organization's gaming and organizational records to insure record keeping compliance. During the review, no hidden ownership or unreported third party financing was detected. Agents did find two violations, and those have since been corrected. The city of East Wenatchee was contacted to verify the licensee was current on all gambling taxes. The East Wenatchee Police Department was contacted to verify there had been no adverse impacts of the card room on the community. Based on the results of the review, the staff recommends approval to operate at a Phase II wagering limits.

Commissioner McLaughlin made a motion seconded by **Commissioner Parker** to approve Buzz Inn Steakhouse to operate at Phase II wagering limits, to be effective immediately. *Vote taken; the motion passed with four aye votes.*

5. New Licenses, Changes, and Tribal Certifications:

Commissioner Parker made a motion seconded by **Commissioner Ludwig** to approve the new licenses, changes and Class III tribal certifications as listed on pages one through 20 on the approval list. *Vote taken; the motion passed with four aye votes.*

6. Election of 2004 Commission Chair and Vice Chair:

Chair Orr called for nominations for the position of Commission Chair for the 2003-2004 year. **Commissioner Parker** nominated Commissioner McLaughlin to serve as Chair for the coming year. **Chair Orr** called for any further nominations for the Chair position, there were none.

Chair Orr called for nominations for the position of Commission Vice-Chair for the 2003-2004 year. **Commissioner Orr** nominated Commissioner Parker to serve as Vice-Chair for the coming year. **Chair Orr** called for any further nominations for the Vice-Chair position, there were none.

Commissioner Ludwig made a motion, which was seconded and approved unanimously that nominations be closed. Congratulations were extended to Commissioner McLaughlin and Commissioner Parker. It was noted the new officers would commence their roles at the conclusion of the June commission meeting.

Chair Orr called for other comments. **Commissioner McLaughlin** commented on her attendance at the Agency Conference, and noted that it was especially nice that her contacts with various staff revealed that they feel very comfortable with the licensees and the tribal agencies that we work with. **Chair Orr** called for public comments, and there were none.

7. Other Business/General Discussion/Comments from the Public:

Commissioner Parker reported on the 12th International Conference on Gambling and Risk Taking conducted in Vancouver, British Columbia on May 26 and 27, and noted that he was invited to participate as a panel member on tribal gaming as a representative of the Gambling Commission. This was a conference that was attended by representatives from all over the world, and many of them were Commissioners. Commissioner Parker shared that he had a chance to have dinner with the Director of the Institute for the Study of Gambling and Commercial Gaming at the University of Nevada, Reno. His report was that the Washington State Gambling Commission is regarded as the national model. Commissioner Parker reported that there was a lot of interesting discussion about the relationship of political considerations and tribal gaming, particularly in California. Some of their representatives expressed their view that there is a concern about the ability of tribes to effectively regulate themselves. With the level of growth and expansion in a place like California, he believed that was a concern the public and public officials should be paying attention to. He clarified his comments were not that there were people who were pointing at smoking guns, but just that within the industry there is an awareness and a concern. On the other side of that coin, they are pointing to the relationship that Washington has with our tribal Gaming Commission, and there were no concerns there. There was confidence because of the support this state's Commission provides to the tribal commissions, and because there is an effective job being done. Commissioner Parker believed that relationship also stands up as a model of how to structure a relationship for the public interest. He also noted that we hear from the tribes that they likewise appreciate that it advances the interest of their tribal members. Commissioner Parker also commented on a report from an economist

who had conducted a national survey of the growth of Indian gaming. His estimate was that tribal commercial gaming represented about \$14.3 billion in overall revenue flow in 2002. Within the national US market of commercial gaming (which are casinos, excluding lotteries, excluding non-profits), that represented for the first time close to 50% of market share. His report and analysis also showed the growth in the last year in tribal gaming revenues. The highest area of growth was in the non-gaming sources of revenue: hotels, resorts, gas stations, and restaurants, things that are vertically integrated with the gaming enterprise itself. The fact that represents a higher source of growth than gaming activities or the revenue strictly from gambling is an issue to reflect upon.

Ernestine Farness, Seattle Jaycee's Bingo, thanked Chairman Orr for his reign during the last two years, and to Commissioner McLaughlin as the Vice-Chair.

Gary Murray, President of the Recreational Gaming Association, also thanked Chairman Orr for his service and congratulated both Commissioner McLaughlin and Commissioner Parker on their nominations and elections to their positions.

Chair Orr thanked the staff and the licensees for a good run. He said, "It's been interesting, it's been educational and I don't doubt one iota that I made a bunch of you mad at times. If I've made you mad, I apologize; you know my obligation is to the people of the state of Washington. I do take this job seriously, I think the world of this Commission, and I think they do a really good job." He thanked the licensees for being honest, forthright businesspeople, and for their efforts to do a job and earn a living.

Chair Orr called for any other comments. **Commissioner Parker** noted that since he would not be present on Friday, he wanted to state for the record that he was in favor of moving the proposed rule change to collapse and eliminate Phase II forward for discussion.

At 3:45 p.m., **Chair Orr** called for an Executive Session to discuss pending investigations, tribal negotiations, and litigation. At 4:30 p.m., Chair Orr reconvened the open public meeting and adjourned the meeting. He noted Friday's meeting would commence at 9:30 a.m.

**COMMISSION MEETING
FRIDAY, JUNE 13, 2003
DRAFT MINUTES**

Chairman Orr called the meeting to order at 9:35 a.m., at Maple Hall located in LaConner, and welcomed the attendees.

MEMBERS PRESENT: **COMMISSIONER GEORGE ORR Chair;
COMMISSIONER LIZ MCLAUGHLIN;
COMMISSIONER CURTIS LUDWIG;
SENATOR SHIRLEY WINSLEY;**

OTHERS PRESENT: **RICK DAY, Executive Director;
ROBERT BERG, Deputy Director;
ED FLEISHER, Special Assistant;
CALLY CASS-HEALY, Assistant Director, Field Operations;
DERRY FRIES, Assistant Director, Licensing;
AMY PATJENS, Administrator, Communications & Legal;
JERRY ACKERMAN, Assistant Attorney General;
SHIRLEY CORBETT, Executive Assistant;**

8. Minutes: Regular Meeting, May 8 and 9, 2003 – Wenatchee:

Commissioner Ludwig made a motion seconded by Commissioner McLaughlin to approve the regular meeting minutes of May 8 and 9, 2003, as presented. Vote taken; the motion passed with three aye votes.

9. Staff Presentation - Special Investigations Unit:

Paul Swortz, Program Manager in charge of Special Investigations Unit (SIU) introduced himself and reported that he has been with the Gambling Commission since 1995. He noted that when the Legislature enacted the statute that became 9.46, they clearly recognized there was a close relationship between professional gambling and organized crime, and, 9.46.010 actually identified that they wanted to restrain all persons from seeking profits from professional gambling activities, or associating with those who did, and to safeguard them from the evils induced by common gamblers and common gambling houses engaged in professional gambling. Professional gambling is detailed in the statute essentially as an activity that is not authorized, such as, when a person acting other than a player or business is conducting an activity that is not authorized in the statute, and they materially

gain from the engagement of some activity, either by offering the game, or doing a game or participating in it, or making it available to people, or engages in bookmaking or lotteries, or violates 9.46.030 (greyhound racing). Criminal investigations under RCW 9.46 were supposed to be investigated by the local law enforcement of the Gambling Commission. It was soon learned that local jurisdictions were not pursuing their investigations, either because they didn't have the skills, or because they didn't think crimes were a high priority. It then became evident that the Gambling Commission, by itself, could not conduct and meet all those needs required to complete all of the investigations. In late 1991, a proposal was made to form a specific unit to investigate illegal gambling, which became the Special Investigations Unit. The commitment began with a Program Manager, a Secretary, a half-time intelligence person, and three special agents. In the first year they conducted 14 investigations of illegal gambling that concluded in 73 arrests, 105 criminal counts being charged, and nearly \$286,000 seized.

Since its inception, the Special Investigations Unit has changed. In 1994 it was joined with the Investigative Audit Unit and the Tribal Gaming Unit to form a new division under Special Operations. In 1997, the Special Investigations Unit came under the jurisdiction of the Deputy Director. The unit currently has nine special agents, two special agent supervisors, a secretary, and an agent in charge. They have the combined experiences of over 124 years of Washington State Gambling Commission service, and 235 years of law enforcement or investigative experiences. One person has 16 years of experience practicing law and three of the staff are bi-lingual. The bi-lingual skills are in Spanish and German. The agents are very experienced and dedicated to their duties.

The mission of the Special Investigations Unit is to assist other agents of the Gambling Commission as well as local, state, and federal agencies in conducting criminal investigations. The unit works very closely with other law enforcement agencies, and assists local prosecutors with the prosecution of violations relating to 9.46. The agents conduct highly intricate investigations on licensed and unlicensed persons and organizations dealing with various criminal aspects of gambling organized crime. The unit conducts undercover criminal investigations and performs undercover casino inspections at both tribal and house-banked facilities. Staff looks for and watches for compact violations, illegal gambling, and dealer procedures. The unit assists other units of the Gambling Commission whenever there is a need for some investigation. The unit provides training to local law enforcement. The statute calls for local law enforcement to be a partner in enforcing the gambling rules and regulations, and many of the entities are not aware of the powers the gambling statute provides for them, nor are they concerned about it. SIU assists in asset seizure coordination, and facilitates search warrants and conducts raids.

The unit investigates essentially all other illegal gambling such as bookmaking and Parley Cards, cockfighting, "after hour" card games, Asian lotteries, slot machines and other electronic devices, sports boards, and other associated crimes. Discussion was generated around the sport boards, and **Mr. Swartz** affirmed that \$1.00 per square, up to 100 squares, one board per event, per establishment was allowable.

Senator Winsley addressed the California pyramids and inquired if they come under SIU's jurisdiction. **Mr. Swartz** responded that pyramid schemes are not under the jurisdiction of the Gambling Commission, that would be something the Consumer Protection Division of the Attorney General's Office would be interested in.

Bookmaking is the most prevalent illegal gambling that SIU gets involved in, and **Mr. Swortz** briefly reviewed some of the more notorious cases: Ham/Foley - seized 89k, Finamore - seized 50k, Bet to Lose - seized 200k, Mitola - seized 17k. He also highlighted the more notorious slot machine and illegal gambling devices cases: Spokane Tribe - 50 slot machines and one semi-truck seized, Colville Tribe 95 slot machines and two semi-trucks seized - resulted in a \$225k fine generated, Azizas case - 22 people arrested, \$15k and 60 machines seized which involved activities in Pierce, King and Snohomish counties.

Mr. Swortz noted that while "After Hour" card games are pretty much a thing of the past, he reviewed the larger cases handled by the unit: Pine Shed case - 14 arrests and \$15k in fines and seizures, a Seattle case - 30 arrests and \$85k seized, and a Tacoma case with 12 arrests and \$238k seized. He addressed other illegal card games and discussed the example of the Bowers Illegal Blackjack operation and the most recent Pullman casino incident.

Mr. Swortz reiterated that undercover investigations are conducted in Tribal Casinos and he cited the most recent cases: Squaxin cheating dealer case in 1996, Emerald Queen cheating dealer case in 1997, the Yakama/Muckleshoot dice-sliders case in 2002, and the Lummi cheating dealer case in 2003.

Some of the Associated crimes that investigators get involved with are: organized crime, use of criminal proceeds, extortion, narcotics, prostitution, murder and arson, and money laundering. He noted that SIU also facilitates surveillance and raid planning.

Mr. Swortz addressed RCW 9.46.231, which allows SIU to seize monies or properties being utilized to further gambling. The Unit has seized approximately \$1.11 million in assets, however, some are still in adjudication. Monies seized go back into the fund to be used in the pool for further investigation.

SIU works closely with local Sheriff's Office, local Police Departments, other Gambling Commission units, the FBI, IRS, the US Attorney's Office, county prosecutors, the National Indian Gaming Commission, and other gambling officials in other states.

Mr. Swortz addressed the unit's future and noted there would be more concentration on criminal cases, an expanded cooperation with prosecutors, continued training to enhance knowledge on gambling associated crimes, continued close working relationships with other units in the Commission, and increased exposure to law enforcement agencies. The unit's goal is to become known throughout the western states as a leading authority on illegal gambling.

At 10:25 a.m., **Chair Orr** called for a recess and reconvened the meeting at 10:35 a.m.

10. Card Rooms:

WAC 230-08-010, WAC 230-12-340, WAC 230-40-010, WAC 230-40-040, WAC 230-40-125, WAC 230-40-805, and WAC 230-40-821:

Cally Cass-Healy, Assistant Director, Field Operations reported that Item 10 is a card room housekeeping package.

Item 10A - WAC 230-08-010 the monthly record is a housekeeping change. A reference to WAC 230-40-821 was added to sub-section one to clarify that the general accounting records for house-banked card rooms must comply with this rule.

Item 10B - WAC 230-12-340 provides the exception that allows for a license to manufacturers and distributors to sell expensive gambling equipment, such as Bingo ball blowers and pull tab dispensing machines on a capital lease. The amendment clarifies that chips, cards and other consumables would not be included. Staff found some problems with interpretations by licensees.

Item 10C - WAC 230-40-010 is up for repeal because it dealt with Washington Blackjack and there isn't anyone playing Washington Blackjack anymore. There were three when the rule was initially put in house-banking rule, and staff left it there to discuss. It was grandfathered at that time. **Chair Orr** asked staff to define the difference between a card game and a social card game. **Mr. Fries** responded that RCW 9.046.03.282 defines social card game as a game that constitutes gambling and is authorized by the Commission under RCW 946.070. Authorized card games may include a house-banked or player funded card game. No one may participate in the card game or have an interest in the proceeds. There shall be two or more participants in a card game who are players or persons licensed by the Commission. A card game may be played in accordance with the rules adopted by the Commission under RCW 946.070 which shall include but not be limited to the rules for the collection of fees limitation and wagers management of player funds. The number of tables authorized shall be set by the Commission but shall not exceed a total of 15 tables per establishment. **Mr. Berg** clarified that gambling is supposed to be a social activity in this state, therefore, social card rooms would be the umbrella under which all gambling occurs, be it house-banked or otherwise, which leads to the implementation of a player exception rule. He explained that if someone has friends over to their house and plays Poker, bets can be made, and ultimately, all the players participating take all of the proceeds as players. He affirmed that is a perfectly legal activity in the state of Washington.

Item 10D - WAC 230-40-040 simply strikes out the words Pai Gow Poker because there are rules that have been approved that also allow games such as Shi Gow, Asian Stud, and Fortune Pai Gow. A commission is allowed (which is a standard way of play on the Pai Gow type games), and they can take up to a 5 percent commission on a winning hand. Other games have built in house advantages, so a commission isn't necessary.

Item 10E - WAC 230-40-125 is where Washington Blackjack is repealed because there are no longer people playing or operating this activity.

Item 10F - WAC 230-40-805 is a clarification that any money removed from a jackpot must be used to purchase merchandise or prizes, or it should remain in the jackpot account.

Item 10G - WAC 230-40-821 clarifies where records are to be stored and makes it consistent with other rules with similar retention requirements.

Ms. Cass-Healy reiterated that Items 10A-10G are housekeeping changes and noted that staff recommends filing the complete package for further discussion. **Commissioner Ludwig** questioned

why Washington Blackjack is being eliminated as an approved way to play cards. He believed that at some point in time, an operator might want to have that game available. Ms. Cass-Healy explained that under the current rules an operator would not be able to do that because there were only three particular licensees specifically grandfathered at the time the rules were initiated. When house-banked card rooms were allowed, a lot of operators chose not to play Washington Blackjack anymore because of competitive factors and for other reasons. Commissioner Ludwig explained that he thought a card room operator would rather operate a house-banked game rather than a Washington style Blackjack game because they would make the profit, and in the long run the house would win. However, for the player's benefit, if they wanted to participate in Blackjack on a player-supported bank, he asked why not permit it, and why should the Commission prohibit it now. **Ed Fleisher** advised that a couple of years ago, the Commission amended the Washington Blackjack statute to only allow the three operations that were at that time conducting Washington Blackjack to continue conducting it, and that no new card rooms would be able to come in. Those three operations are no longer conducting Washington Blackjack, and in that sense, this is more of a housekeeping change because under the current WAC's, no one could start offering Washington Blackjack unless the Commission re-instituted the Washington Blackjack authorization. **Ms. Cass-Healy** recalled the reason the rule change was initiated in the first place was because staff was having a lot of difficulty regulating the activity, it had to do with specifically rotating the dealer, which was not occurring, and was very difficult to regulate.

Commissioner McLaughlin indicated that she didn't realize when the rule was passed that no one else could initiate the game. She asked if someone wanted to play Washington Blackjack, whether they could approach the Commission and the Commission could change the WAC again. Commissioner McLaughlin verified that there wasn't a force of law as far as not being able to play the game. **Ms. Cass-Healy** affirmed, if that was the Commission's desire. **Chair Orr** affirmed and requested further discussion on this issue.

Commissioner Ludwig made a motion seconded by **Commissioner McLaughlin** to file the card room rules package, Item 10 Sections A-G as presented. *Vote taken; the motion passed with three aye votes.*

Bill Tackitt addressed the Commission noting that he operated Washington Blackjack quite successfully in Arlington and in South Everett. He operated two tables and thought that the highest he ran (for one month) was approximately \$6,000. Someone had to collect the fees, which meant costs associated with that. The reason he originally got into Washington Blackjack was because he was trying to save the little card operators. He believed there was merit to what Commissioners Ludwig and McLaughlin were thinking. Mr. Tackitt explained that he didn't know if it would be economically feasible in today's gaming environment, and he didn't know if it would bring the excitement to the general public that it did when it first was authorized. He affirmed that if it was not feasible, he didn't see any reason to hold the rules for it.

Robert Saucier, Galaxy Gaming, Licensing Manufacturer, addressed Item 10C, WAC 230-40-010 stating that he was aware that staff submitted this as a housekeeping measure which was parallel to the elimination of the Washington Blackjack. He further addressed paragraph 1-D, where it says players shall not place wagers on any other players, or the house's hand, and that no side bets between the players are allowed. He suggested the words "the house's hand" be stricken from this

rule. Currently, there is a prohibition against a player wagering against the house's hand, however, there are some games manufacturers would like to introduce where that is a very common practice. It is part of a player's strategy to be able to wager on the house, the dealer, or the player's hand. **Mr. Saucier** offered that if this could be considered, a presentation could be developed for the Commission to show how this would happen, and the type of games. **Commissioner McLaughlin** asked if it would stay within the \$100 limit. Mr. Saucier affirmed, and stated that in his opinion, it would have no other effect on the game or on regulation. **Chair Orr** suggested Mr. Saucier formalize his request with staff and noted the rule would be further discussed at the next meeting.

Robert Saucier explained that his intention would be that if the rule is filed today, that his recommended change be included in the amendment, which could be stricken out later if the Commission so desired. **Jerry Ackerman**, Assistant Attorney General cautioned that a problem the Commission may be facing is the rule being discussed is the existing rule. Staff has presented an amendment to that rule which would in essence delete the Washington Blackjack proviso. He thought Mr. Saucier's proposal was an entirely different subject and there would be a substantial change to the proposed rule that has been presented. He suggested that Mr. Saucier could submit a petition for rule making at anytime to address the other topic. Procedurally, Mr. Ackerman believed the Commission would have to re-file what's currently before the Commission with the additional change that has been proposed, and/or Mr. Saucier could submit a petition for rule making. He clarified the motion before the Commission is to file the staff proposed amendment for further discussion. The Commission would need either a petition for rule making or a second motion. He suggested the Commission needed to see exactly what's being proposed. If the Commission files this rule for further discussion, it doesn't foreclose additional changes; the Commission would have to procedurally bring them forward in a different manner.

Director Day suggested that Mr. Saucier let the Commission know which games he's particularly interested in. **Chair Orr** affirmed that Mr. Saucier's idea needed to be formalized, and the correct method would be to file the rules as presented, and that Mr. Saucier go through the process of word smithing this document to match his desires, and bring it to the staff, who would then bring it before the Commission. **Mr. Ackerman** reminded the Commission they already voted to file this rule in the form that it currently exists. He suggested that Mr. Saucier get together with staff and then present a petition for rule making with his changes for the Commission at the next meeting. **Mr. Saucier** suggested that for efficiency purposes, perhaps the two could be combined. **Chair Orr** responded that was not possible until a formal submittal was offered by Mr. Saucier in order to eliminate any confusion. Mr. Ackerman concurred that procedurally it would also make the public discussion more meaningful because there may very well be people coming forward to discuss the two proposals. The problem is that these two subjects are not linked, they're entirely different subjects, one addresses side bets, and staff is talking about eliminating Washington Blackjack. Procedurally it's irrelevant because the Commission has already voted to file the rule for discussion, and because Mr. Saucier's changes are substantive, Mr. Ackerman believed he really needed to file a petition to make the changes he desired.

Mr. Saucier affirmed this rule was not relative to Washington Blackjack and agreed it was a parallel rule to the Washington Blackjack. **Director Day** clarified the proposal the Commission just filed was to eliminate the reference to Washington Blackjack out of this rule. The connection with Mr.

Saucier's proposal is merely that his suggestion is in the language affected, it is in the same rule but has nothing whatsoever to do with Washington Blackjack.

Senator Winsley referenced Item 10B, WAC 230-12-340, noting this amendment clarifies that only more expensive gambling equipment maybe purchased on credit, and disposable items such as cards and chips need to be paid for at the time of purchase. She indicated the current WAC has been in effect since 1971, and adding the words "we shall not include card, chips and other consumable gambling related equipment" made the rule even fuzzier than it ever was. Senator Winsley suggested "other consumable gambling related equipment" was not spelled out, and she thought the existing rule was very clear. Everything had to be on a cash basis, the exceptions were very clearly spelled out, and the Commission should not change the law or the WAC's for one incident. **Chair Orr** acknowledged the Senator's comments.

11. House-Banked Card Rooms:

A. Elimination of Formal Phase II Reviews - WAC 230-40-803, WAC 230-0-120, and WAC 230-40-825:

Cally Cass-Healy, Assistant Director, Field Operations, reported that Items 11A, 1-3 have to do with a request to eliminate the formal Phase II review process. Item 11A is WAC 234-40-803, and initially when house-banking games were new in the state, the Phase II was designed to insure house-banked card rooms were in compliance before increasing their bidding limits from \$25.00 to \$100.00. It also allowed staff the opportunity to learn more about regulating those activities. Now, staff is recommending removing the Formal Phase II Review and allowing card rooms to open with \$100.00 betting limits. Staff would still perform a review, but it would be conducted when staff felt it was necessary and appropriate, which makes the review process much more streamlined. She affirmed that currently, staff didn't have any regulatory concerns with card rooms opening at the higher bidding limits. Some card rooms have expressed financial concerns opening up at lower limits.

Commissioner McLaughlin affirmed that when house-banked card rooms came into being, the Card Room Expansion Program (CREP) was instituted because neither the card rooms or the Commission knew very much about regulating the games, so the \$25.00 limit made sense until the licensees operated for a while. **Ms. Cass-Healy** noted that as the Phase II reviews have come forward, they have become cleaner and cleaner, and recently, several reports were essentially completely clean. Commissioner McLaughlin agreed the rule proposal made sense.

Ms. Cass-Healy stated that staff recommends the entire rule package be filed for further discussion, and that the first three rules that have to do with the Phase II, be effective September 15, or 31 days after approval. **Chair Orr** clarified the Commission would be filing the rule now, finalizing them in August, and they would be enacted 31 days after approval. Chair Orr called for public comments.

Ron Rzewnicki, Paradise Bowl, asked for a clarification on the set of standards for opening. **Ms. Cass-Healy** explained the standards for opening would remain the same; there would be the initial PORE review, which would still come before the Commission. That would not change under this rule. She clarified that staff does not intend to charge an upfront fee for Phase II

reviews anymore. If an expanded investigation became necessary, staff would do that and charge fees under the Special Investigations fee schedule.

Gary Murray explained that he was planning to open a new enhanced card room within the next three or four months. He supported the elimination of the \$25.00 limit because it would make it easier to get through the process of opening without going into bankruptcy. He said, “opening at the \$25.00 limit doesn’t give the industry an opportunity to provide the jobs, the wages, and benefits in the communities, if we’re not generating the cash flow necessary.”

Dave Eness, Grand Central Casinos, reported that he had been through \$25.00 limits three times. The cost of a club during the first six month period is somewhere between \$300,000 to \$400,000 because of the labor expenses to run that type of operation. He believed this rule would help the industry and the businesses.

Mark Mitchell, Drift Inn Casino, advised that he has been operating for approximately five years, and that it seemed ludicrous to have to go through a six-month period where the business loses close to half a million dollars. He explained that he’s into a new operation for six million dollars; he built a 21,000 square foot building from the ground up, and the interest alone amounts to over \$300,000. Mr. Mitchell strongly supported the elimination of the Phase II process. With no further comments, **Chair Orr** called for a motion.

Commissioner Ludwig made a motion seconded by **Commissioner McLaughlin** to file the house-banked card room rules package in Item 11-A as presented. *Vote taken; the motion passed with three aye votes.*

B. Minimum Bankroll - WAC 230-40-833:

Cally Cass-Healy explained the amendment to WAC 230-40-833 requires licensees to maintain a minimum bankroll to ensure they can pay out all advertised prizes and chips that are in play. This also requires the licensee to contact staff immediately if the requirement is not being met. She addressed staff’s worksheet on what it would take to cover the minimum bankroll, and affirmed the licensees have been provided a copy and have been working with staff to make sure that it is reasonable and meets staff’s purpose.

Chair Orr called for public comments and there were none.

Commissioner McLaughlin made a motion seconded by **Commissioner Ludwig** to file the house-banked card room rules package contained in Item 11 Section B as presented. *Vote taken; the motion passed with three aye votes.*

12. Petition for Rule Change by Dwight Bailey - Licensure of entities that Sell Merchandise to be used as Prizes for Pull-tab Games:

WAC 230-04-124:

Amy Patjens, Administrator for the Communications and Legal Department, reported this petition deals with businesses that sell merchandise for pull-tab prizes. She noted that any member of the

public might petition the Commission for a rule change. Mr. Bailey owns Spokane Pull-Tabs & Supply Company, a company licensed as a distributor, to distribute pull-tabs, bingo paper, and other gambling related supplies. With pull-tab games, the licensee may give away cash as a prize, or merchandise. Most give away cash, but this petition deals with merchandise as a prize. A business that only sells merchandise to pull-tab operators would not be required to be licensed by the Commission. However, if they sell pull-tab games as well as the merchandise, they have to be licensed. The Commission licenses Mr. Bailey because he has his pull-tab games bundled with the prizes in one package. Mr. Bailey is concerned because there are some specialized businesses that target pull-tab operators and since they are not selling pull-tabs, they don't have to be licensed by the Commission. However, because Mr. Bailey is licensed, he has to follow all of the rules that pertain to pull-tab distributors. One of those rules is the Discriminatory Pricing rules. He has to offer the pull-tab games to everyone at the same price. His competitors don't have to be licensed because they are only selling the merchandise, and therefore don't have to follow the same discriminatory pricing requirements.

Ms. Patjens explained the three options: the Commission may file the rule for further discussion, deny the petition and state the reasons, or, propose an alternative. Staff recommends denying the petition. Staff doesn't have regulatory concerns about businesses that are only selling merchandise, and staff doesn't think there are concerns that would rise to the level of wanting to license all of those people. Ms. Patjens also noted that the language contained in the petition is very broad and potentially subject to different interpretations, which may not accomplish what Mr. Bailey is hoping for. She explained that an option Mr. Bailey has is not to sell his pull-tab games packaged together with the prize. If he wanted to branch out and have a separate business selling prize merchandise, he could do that in the same manner as his competitors without dealing with the discriminatory pricing rules.

Senator Winsley commented that she thought it was illegal for a pull-tab operator to purchase merchandise from any store (such as Costco) because when they put the prizes up, they have to have a flag or a header, and the only one that can provide that is the distributor. She asked if that was a flaw in the current law as passed in 1973, and whether this was a WAC or an RCW. **Ms. Patjens** responded that the flare must come from a licensed distributor. The flare shows what prizes are available for the game if someone has a winning ticket. She affirmed licensees do have to purchase the flares from a licensed distributor. **Director Day** responded that staff would research Senator Winsley's question and provide a response at the next Commission meeting.

Commissioner McLaughlin made a motion seconded by **Commissioner Ludwig** to file the petition as presented for further discussion.

Chair Orr asked if Mr. Bailey was present to address his petition, he was not. Chair Orr called for public comment.

Bill Tackitt, from the Buzz Inn, thought this rule should be labeled as a monopoly rule. He reported that he provides a lot of merchandise, and that he has three people working full time doing his merchandise boards. He reported that he buys all his flyers through a licensed distributor, and it comes with the game. The merchandise has to fit the flyer and game from a licensed distributor. He explained that there are a lot of individual crafts people that make things, which he buys and puts on

the boards, and he couldn't recall any merchandise problems in the last 25 years. He strongly advised the Commission to look closely at the proposal.

George Panagiotu advised he represented Gasperritti's Riveting, a licensed distributor in Tacoma, dealing with merchandise. He stated for the record that he wanted to piggyback on Mr. Bailey's petition, and supported filing the petition for further discussion. He agreed there were a lot of idiosyncrasies, and he agreed with Mr. Tackitt's comments about the various craftsmen and their ability to be able to buy merchandise and make their own games, noting they're entitled to do that, just as an individual could go to Costco, Sears, or Penney's, and buy their own merchandise. However, they then have to be responsible for their particular flare and with the percentages and payouts that are designed by the Gambling Commission. The rule involves the licensing of an individual, and they are not licensed. They would have the ability to sell merchandise that is un-auditable by the Gambling Commission. They could sell products at various prices, which may allow kickbacks to come in that cannot be audited by the Gambling Commission, and it may potentially allow credit, which is another very important consideration. Individual vendors could say they would leave the knife "deal" today and be by in three days time to pick up the pay for the merchandise. That is credit and licensed distributors are unable to do that. He asked for a level playing field regarding providing prizes – either everyone needed to be licensed, or, no one should be licensed.

Ken Sroufe, Mr. Ed's Bingo and Casino Supply, explained that he had similar concerns as expressed by Mr. Panagiotu, and that he understood where Mr. Tackitt was coming from as an operator. Merchandise and pull-tabs are two separate things and they get married up to make prizes for pull-tab or punch board games, or however they want to be used. Currently, anyone can come in and sell the operator merchandise, (such as a set of pool cues) and they make them a good deal because they might say if they buy 12, they will throw in the 13th for nothing. A licensed distributor is restricted from doing that. The position has been that if one sells pull-tabs and gaming, then the merchandise falls under the same umbrella. However, one could hire someone and sell the same merchandise as a retailer. Mr. Sroufe agreed the rule needed to be looked at and studied to determine if there is a solution that would make things fairer across the board. He said he understands the regulations and the need for them, but at the same time, he asked the Commissioners to look at and understand where the licensees are coming from – they have a product that could be marketed by itself, which isn't associated with gaming.

Chair Orr called for additional comments, there were none and he called for the vote. *Vote taken; the motion passed with three aye votes.*

13. Other Business/General Discussion/Comments from the Public:

Commissioner McLaughlin presented Chair Orr with a logo Commission polo shirt in appreciation for serving two years as Chair. Chair Orr expressed his appreciation, and with no other business, adjourned the meeting at 11:35. The next meeting is scheduled for August 14 and 15, 2003, in Vancouver.

Minutes submitted by:
Shirley Corbett, Executive Assistant